

Statement of the Alliance of American Insurers

Submitted to

The Subcommittee on

Capital Markets, Insurance, and Government-Sponsored Enterprises

Hearing on

Agent Licensing Uniformity

May 16, 2001

The Alliance of American Insurers is a national trade association representing over 325 property/casualty insurance companies. We appreciate this opportunity to present to the House Financial Services Committee a review of producer licensing reform activity as it applies to the National Association of Registered Agents and Brokers (NARAB) mandate included in the Gramm, Leach, Bliley Act (GLB). Our member companies are committed to establishing an environment in the states for reform of outdated and inefficient statutes and regulations that govern the licensure and appointment of insurance producers.

State regulators, through the NAIC and with input from the insurance industry, began the process of establishing the Producer Licensing Model Act before the enactment of NARAB as an element of GLB. Four years ago the National Association of Insurance Commissioners (NAIC), with industry input, began deliberations that led to adoption of the Producer Licensing Model Act. Our membership continues to participate in this process as state legislatures consider enactment of reciprocal and uniform licensure laws during their 2001 legislative sessions.

There is little doubt that the presence of a potential federal solution for establishment of uniform and reciprocal licensure processes has spurred regulators to almost unprecedented action in pursuing system reform at the NAIC and, this year, in the states. The full committee, under the leadership of Chairman Oxley, and this subcommittee, under the leadership of Chairman Baker, are to be commended for their interest in and oversight of the issues related to GLB implementation.

Alliance member companies support enactment of uniform and reciprocal licensure laws at the state level. We realize that the 29-state mandate in NARAB will simply be a step along the path toward harmonizing state licensing laws. True reform will not be realized until all 50 states have enacted uniform and reciprocal licensure statutes based upon the NAIC model act. The NAIC leadership and the NARAB Working Group should be commended for their adoption of a 50-state strategy for licensure reform. It makes little sense to enact reform laws in 29 states, thus avoiding the NARAB challenge, if those states represent only a fraction of the 3 million insurance producers licensed to do business in the country.

Equally important, the Alliance believes that states must enact the critical uniform licensure standards developed in the NAIC model act in addition to the sections on reciprocal treatment of non-resident license applicants designated by the regulators as “must have” features of a new law that will comply with NARAB. Currently, states can enact language in only four sections of the 20-section model act and gain NARAB compliance. That limited level of licensure reform neglects uniform elements in the model act that are meant to level the playing field for producers who will be required to compete in a reciprocal licensure environment.

Key elements that should be look for in legislative proposals addressing agent licensing include:

- ◆ Standard definitions for “sell, solicit and negotiate”, because they are acts that require licensure;
- ◆ Standard language that defines exceptions to licensure;
- ◆ Similar lines of authority for which a producer may be licensed;
- ◆ Standard provisions for the payment and receipt of commissions;
- ◆ Uniform processes for the appointment and termination of producers; and
- ◆ Inclusion of confidentiality and immunity provisions adopted by the NAIC that provide for the open exchange of information between companies, producers and regulators when licensure and appointment disputes arise.

There are additional uniformity issues for producer licensure that we believe are also important and yet are not captured within the model act. These issues include a final determination of standard information to be provided on the NAIC Uniform Application that all states will accept and a development, by the states, of a uniform approach to criminal background checks for insurance producers. HR 1408, currently before the Financial Institutions and Consumer Credit subcommittee, addresses this later issue.

The Alliance believes the progress made by states in producer licensing reform should be evaluated by the degree to which the states embrace these uniform licensure processes, as well as the reciprocal requirements of NARAB. A very early assessment of progress made this year in the legislative arena gives us reason for cautious optimism that a uniform and reciprocal system for producer licensing may be realized across the

country in the not too distant future. There is good news --- and some questions to be answered --- given the reform activity that has occurred so far.

As of this writing, reform legislation has been enacted this year in 18 states. Three of those new laws contain only the reciprocity provisions of the NAIC model act, the rest are more comprehensive and include most of the uniform provisions in the model act. In four states Comprehensive legislation has been adopted in legislatures and awaits Governors' signatures.

The 22 jurisdictions where bills have been enacted, or are waiting Governors' signatures, when added to the enactments in four states in 2000, brings us to 26 of the 29 needed to satisfy the NARAB provision in GLBA. In addition, comprehensive bills that have passed through both legislative chambers are waiting concurrence votes in four states; and legislation that includes comprehensive reform has been introduced in at least eight other states. In another positive development, two states that enacted reciprocity provisions of the model act last year have legislation moving this year that will add the uniformity provisions of the model act to the statutes.

The progress that has been made in the states this year must be balanced against the fact that some of the larger jurisdictions have been slow, and in some cases reluctant, to participate in the reform process. For instance, it is fairly certain that legislative activity on producer licensing will not take place this year in Florida. The Texas bill arguably meets the NARAB standard, but contains few of the uniformity provisions from the model act.

The picture has brightened somewhat in California with a recent amendment to existing legislation that may meet the NARAB reciprocity standard, however we are told that bill will not be seriously considered by the legislature until next year. The recent confirmation of a new Insurance Superintendent in New York has given industry observers optimism that activity could heat up in the state this year on comprehensive reform bills that have stalled in the legislature.

In short, there is a work to do in order to realize the goal of reform in all 50 states. However, we are impressed by the positive attitude of most state regulators and legislators where producer-licensing reform is concerned. It is important to note that most of the legislation that has been enacted this year, or is in the pipeline, is the result of proposals developed by Insurance Departments with front-end input by industry and consumer organizations. For that reason, in states where new laws have been enacted this year, legislators have generally been presented a consensus reform package.

In conclusion, the Alliance believes that the first phase of producer licensing reform success that has occurred so far during the 2001 legislative sessions, establishes a positive base for progress. We anticipate action in other states before year's end. The 29 state NARAB mandate should be met a year in advance of the 2002 deadline. However, the challenge for regulators, state legislators and the insurance industry is ongoing. It will take the combined efforts

of all producer-licensing stakeholders to bring a uniform and reciprocal licensure environment to every state.

Congressional interest in the producer licensing issue has been a motivating factor for advancing positive legislative developments in the states. For that reason, we welcome the oversight activities of this subcommittee. The insurance industry can be a valuable resource for the committee in its oversight of GLB implementation. We are willing to provide committee members and staff any additional assistance on producer licensing reform progress, as well as on other GLB implementation issues, at your convenience.